

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:15-HC-2128-D

DAVID LEE SMITH, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )

**ORDER**

On August 12, 2015, Magistrate Judge Numbers issued a Memorandum and Recommendation (“M&R”) [D.E. 6]. Judge Numbers recommended that Smith’s petition be dismissed without prejudice, that the court deny a certificate of appealability, and that Smith’s remaining motions be denied as moot [D.E. 6]. On August 20, 2015, Smith filed objections to the M&R [D.E. 7].

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (alteration, emphasis, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted).

The court has reviewed de novo the portions of the M&R to which Smith objected. Smith’s objections restate the arguments made to Judge Numbers. See [D.E. 1, 7]. The arguments lack merit. Accordingly, the court adopts the M&R and overrules the objections.

In sum, Smith's objections to the M&R [D.E. 7] are OVERRULED, Smith's petition is [D.E. 1] is DISMISSED without prejudice, and the court DENIES a certificate of appealability. Furthermore, Smith's motion for a preliminary injunction [D.E. 4], motion for release [D.E. 5], and motion to compel an answer to his petition [D.E. 8] are DENIED, and this action is DISMISSED. The clerk shall close the case.

SO ORDERED. This 8 day of September 2015.

  
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JAMES C. DEVER III  
Chief United States District Judge